

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-877V

Filed: August 1, 2019

UNPUBLISHED

TIFFANY WILSON,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Andrew Donald Downing, Van Cott & Talamante, PLLC, for petitioner.

Sarah Christina Duncan, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On June 20, 2018, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of the influenza (“flu”) vaccine she received on October 24, 2017. Petition at 1, 3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 10, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for her SIRVA. On August 1, 2019, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$80,000.00, as well

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

as \$2,160.96 to satisfy a Medicaid lien. Proffer at 1-2. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards the following compensation**, which represents compensation for all damages that would be available under § 15(a):

1. **A lump sum payment of \$80,000.00, representing compensation for actual and projected pain and suffering, in the form of a check payable to Tiffany Wilson; and**
2. **A lump sum payment of \$2,160.96, representing compensation for satisfaction of the Mercy Maricopa Integrated Care Medicaid lien, in the form of a check payable jointly to petitioner and to:**

**Equian, LLC
PO Box 32140
Louisville, KY 40232-2140
File No.: 970539-175418**

Petitioner agrees to endorse this payment to Equian, LLC.

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

TIFFANY WILSON,

Petitioner,

V.

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

No. 18-877V

Chief Special Master Dorsey

ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On June 20, 2018, Tiffany Wilson (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of an influenza vaccine she received on October 24, 2017. Petition at 1, ¶ 11. On May 9, 2019, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act, and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation on May 10, 2019. ECF No. 30; ECF No. 31.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that Tiffany Wilson should be awarded \$80,000.00 in actual and projected pain and suffering. This amount reflects that the award for projected pain and suffering has been reduced to net present value. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Satisfaction of Medicaid Lien

Respondent further proffers that Tiffany Wilson should be awarded funds to satisfy a Mercy Maricopa Integrated Care (“MMIC”) Medicaid lien in the amount of \$2,160.96, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action MMIC may have against any individual as a result of any Medicaid payments that MMIC has made to or on behalf of Tiffany Wilson from the date of her eligibility for benefits through the date of judgment in this case as a result of her vaccine-related injury suffered on or about October 24, 2017, under Title XIX of the Social Security Act. Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through two lump sum payments as described below:

- 1) A lump sum payment of \$80,000.00 in the form of a check payable to petitioner.¹
- 2) A lump sum payment of \$2,160.96, representing compensation for satisfaction of the MMIC Medicaid lien, payable jointly to petitioner and to:

Equian, LLC
PO Box 32140
Louisville, KY 40232-2140
File No.: 970539-175418

Petitioner agrees to endorse this payment to Equian, LLC.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

C. SALVATORE D’ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

s/ Sarah C. Duncan
Sarah C. Duncan
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 514-9729
Fax: (202) 616-4310

DATED: August 1, 2019